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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

YOR920030225US1

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on e-filed 10/16/07

Signature /Monica Gamez/

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Application Number

10/637,219

Filed

2003-08-08

First Named Inventor

Benoit Maison

Art Unit

2626

Examiner

Neway, Samuel G.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

- ☐ applicant/inventor.
- ☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

☒ attorney or agent of record. **48,504**
Registration number

☐ attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34

/Theodore D. Fay III/

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972-385-8777

Telephone number

October 16, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☒ *Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application: **Maison et al.**

Serial No.: **10/637,219**

Filed: **August 8, 2003**

For: **Task Specific Code Generation
for Speech Recognition Decoding**

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Group Art Unit: **2626**

Examiner: **Neway, Samuel G.**

Attorney Docket No.: **YOR920030225US1**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

35526
PATENT TRADEMARK OFFICE
CUSTOMER NUMBER

**REASONS IN SUPPORT OF APPLICANTS' PRE-APPEAL
BRIEF REQUEST FOR REVIEW**

Sir:

This document is submitted in support of the Pre-Appeal Brief Request for Review filed concurrently with a Notice of Appeal in compliance with 37 C.F.R. 41.31 and with the rules set out in the OG of July 12, 2005 for the New Appeal Brief Conference Pilot Program.

No fee or extension of time is believed due for this request. However, if any fee or extension of time for this request is required, Applicants request that this be considered a petition therefor. The Commissioner is hereby authorized to charge any additional fee, which may be required, or credit any refund, to Deposit Account No. 50-0510.

REMARKS

Applicants hereby request a Pre-Appeal Brief Review (hereinafter "Request") of the claims finally rejected in the Final Office Action mailed July 17, 2007. The Request is needed because the rejections are clearly in error. The Request is provided herewith in accordance with the rules set out in the OG dated July 12, 2005.

I.A. Rejection of Claim 11 Under 35 U.S.C. § 101

The examiner rejected claim 11 under 35 U.S.C. § 101 as being directed to non-statutory subject matter on the basis that the claim is directed to a computer program product, which is not a physical thing. The examiner suggests that claim 11 be re-written as a “recordable-type medium storing a computer program product.”

Claim 11 currently recites, “A computer program product, stored in a recordable type medium.” Comparing the two phrases, the examiner appears to believe that a distinction exists between a “recordable type-medium storing a computer readable medium” and a “computer program product stored in a recordable-type medium.” However, the examiner has created a distinction without a difference.

Putatively, the examiner’s proposed phrase is directed to a physical object; namely, the medium itself. However, because Applicants’ claim 11 is stored in a recordable-type medium, the computer program product of claim 11 must be embodied as a physical object. Thus, claim 11 is also directed to a physical, tangible thing. Hence, claim 11, and its dependent claims are patentable subject matter under 35 U.S.C. § 101.

I.B. Rejection of Claim 1 Under 35 U.S.C. § 103

The examiner rejected claim 1 under 35 U.S.C. § 103 as obvious in view of *Arnold et al.*, Method and Apparatus for Providing a Dynamic Speech-Driven Control and Remote Service Access System, U.S. Patent Application Publication 2003/0125955 (December 28, 2001) (hereinafter “*Arnold*”) in view of *Poirier et al.*, Executable for Requesting a Linguistic Service, U.S. Patent 6,321,372 (December 23, 1998) (hereinafter “*Poirier*”). As required by law, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

This rejection is clearly in error because the examiner has failed to meet the standards of *In re Royka*. Claim 1, in its current form, is as follows:

1. A method, implemented in a data processing system, for generating task-specific code for pattern recognition, the method comprising:
 - receiving task-specific input system data of a pattern recognition system;
 - and
 - generating task-specific code for the pattern recognition system based on the task-specific input system data, wherein the task-specific code includes computer language suitable for compilation.

In rejecting claim 1, the examiner relies on *Arnold* to teach the claimed feature of, “generating task-specific code for the pattern recognition system based on the task-specific input system data.” However, this assertion is early in error. Nevertheless, to support this proposition, the examiner refers to three portions of *Arnold*. Applicants show, in turn, why none of these portions of *Arnold* teach or suggest this claimed feature.

The examiner first refers to paragraph 0008 of *Arnold*, which is as follows:

[0008] Specifically, the distributed speech recognition system comprises at least one client device and a central server. The client device is a remote device that is in communication with the central server, but it is physically deployed apart from the central server. In operation, the client device is equipped with a speech recognition module having an initial language model. In one embodiment, the distributed speech recognition system allows automatic "speaker adaptation" to be performed locally by the client device. Namely, local parameters such as environmental noise around the speaker, pronunciation (e.g., accents or dialect) of the speaker and/or the acoustic environment (e.g., within a tunnel or a carpeted room) around the speaker are adapted locally by the client device in performing its speech recognition functions. Speaker adaptation is particularly appropriate within the present architecture in that it is carried out in a client device largely dedicated to a particular user. Although such adaptations are performed locally, the central server may also assist the client device as necessary, e.g., forwarding a different acoustic model to the client device from the central server.

Arnold teaches that a client device equipped with a speech recognition model has an initial language model. The system in *Arnold* allows “speaker adaptation” to be performed locally by the client device in order to accommodate a particular user. *Arnold* refers to “speaker adaptation” as setting local parameters to account for factors such as environmental noise, pronunciation, and environmental conditions.

In context, *Arnold* is attempting to create a speech recognition system that is individually tailored to a user, but which uses a minimal amount of computing resources. *Arnold*, paragraphs

0005 and 0006. Thus, *Arnold* seeks to create conditions in which a user can use a hand-held device, with limited computing resources, to perform speech recognition. *Id.*

However, *Arnold* generates no code. The cited section, on its face, does not teach or suggest the generation of code. The disclosure simply is not present. Instead, when one of ordinary skill consults the broader teachings of *Arnold*, the one of ordinary skill recognizes that *Arnold* downloads the necessary software to perform local adaptation *from a server*. See, for example, *Arnold*, Abstract.

Additionally, the server does not generate any code. Instead, such code is already extant on the server and is downloaded to the client according to the client's needs. See, *Arnold*, paragraph 0020 (quoted below) and *Arnold*, figure 1. Given the lack of disclosure in *Arnold* regarding this claimed feature, *Arnold* also does not suggest this claimed feature.

Applicants next address paragraph 0009 of *Arnold*, which is cited by the examiner:

[0009] For example, in another embodiment, the distributed speech recognition system provides the ability to implement "dynamic grammars". Specifically, the client device is initially equipped with an initial language model. As the user interacts with the client device, the language model is updated by the central server as the interactions between the user and client device indicate that an updated language model is required to carry out the user's request. This distributed approach maximizes the processing power of the client device without overburdening the client device unnecessarily with a complex language model.

In this case, *Arnold* teaches that the *system* provides for the ability to perform "dynamic grammars." *Arnold* describes this system as providing a client device with an initial language model. As the user interacts with the device, the language model is updated *by the central server*. Thus, paragraph 0009 describes the heart of *Arnold*'s goals, which are as described above.

However, this paragraph does not teach or suggest *generating code*, as claimed. Instead, code is simply downloaded from the server.

Applicants next address paragraph 0020 of *Arnold*, which is cited by the examiner (emphasis added):

[0020] In turn, the speech recognizer 120 receives the speech features and is able to decode the "recognized text" from the speech features using various models as discussed below. An important aspect of the present invention pertains to the "dynamic" models that are employed by the speech recognizer 120. Specifically, due to the anticipated small footprint of the client device 110, the present invention employs "dynamic grammars" as a driving mechanism in providing the

necessary models or portions or updates of a model to the client device. *Since the processing capability and storage capability of the client device 110 are anticipated to be limited, the present invention is designed to provide the client device 110 with just enough data and information to perform the tasks as required by a current speaker. Thus, the client device is adapting its models in response to the speaker, hence the term "dynamic grammars". The speaker adaptation functions are executed in cooperation with the central server 130.*

In this portion, *Arnold* provides further details of the “dynamic grammar” feature described in paragraph 0009. The examiner should note the emphasized portion of *Arnold*. *Arnold* emphasizes the limited processing power of the client. Again, to solve this problem, *Arnold* downloads appropriate software to the client to handle a particular task faced by the client. However, neither the client nor server *creates* any form of code, as required by claim 1.

The examiner relied on the teachings of *Arnold* to state the rejection. As shown above, nothing in *Arnold* teaches or suggests this claimed feature. By implication, the examiner appears to believe that *Poirier* does not teach or suggest this claimed feature. Accordingly, under the standards of *In re Royka*, the examiner failed to state a *prima facie* obviousness rejection against claim 1.

The remaining rejections rely on the same errors presented vis-à-vis the rejection of claim 1. Therefore, the examiner failed to state a *prima facie* obviousness rejection against the remaining claims at least for the reasons given above. Accordingly, the rejections should be withdrawn and the claims allowed.

The Pre-Appeal Brief Conference Panel is invited to call the undersigned at the below-listed telephone number if in the opinion of the Panel such a telephone conference would expedite or aid the prosecution and examination of this application.

DATE: October 16, 2007

Respectfully submitted,

/Theodore D. Fay III/ TDF

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